



**Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals**

John Lee, Chairman
Susanne Murphy, Vice Chair
Robert Fitzgerald, Clerk
Mary Jane Coffey, Member
Craig Hiltz, Member

DECISION – WALPOLE ZONING BOARD OF APPEALS CASE NO. 19-18

APPLICANT
Kevin Coffey

FILE

LOCATION OF PROPERTY INVOLVED

19 Maude Terrace, Walpole, MA and shown on the Assessors Map 53 and Parcel 186, Zoning District: Residence B

APPLICATION

A Variance under Section 6.B-1 of the Zoning Bylaw to allow a three (3) season porch with a rear setback of 27.3"ft. , where thirty (30) ft. is required, located at 19 Maude Terrace, Walpole, MA 02081

On September 19, 2018 a Public Hearing was held in the Main Meeting Room of Town Hall for the purpose of receiving information and voting upon a decision as to the granting of a **Variance** for the relief requested.

The following members were present and voting:

John Lee, Chairman
Susanne Murphy, Vice Chairman
Robert Fitzgerald, Clerk
Craig Hiltz, Member

A motion was made by Susanne Murphy and seconded by Robert Fitzgerald to grant a Variance from Section 6.B-1. of the Zoning Bylaw to allow a three (3) season porch with a rear setback of 27'.3"ft. where thirty (30) ft. is required, located at 19 Maude Terrace, Walpole, MA 02081

The vote was **4-0-0 in favor** (Murphy, Hiltz, Fitzgerald and Lee); therefore the application for a **Variance** under Section 6.B-1 is hereby **granted**, subject to the following conditions:

1. The three season porch shall be located and constructed as shown on the plans submitted at the Public Hearing on September 19, 2018, "Proposed 3 Season Rm., 19 Maude Terrace, Walpole, MA 02081, dated June 6, 2018.
- | 2. The Applicant shall connect the downspouts to the proposed three--season porch into the dry-well system.
3. No further relief is granted by this decision, and any further relief will require a new application to the Board of Appeal.

REASONS FOR DECISION

It is the finding of the Board that the applicant was able to meet the requirements for the granting of a Variance, as per the following:

1. *Owing to circumstances relating to soil conditions, shape or topography of such parcel or to such structure, and especially affecting generally such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship to the appellant or petitioner.*

The lot located at 19 Maude Terrace, Walpole, MA 02081 has a unique "pie" shape, which limits the Applicant to the size and placement of the proposed three (3) season porch. Moreover, the existing kitchen window cannot be moved without substantial renovation, and the proposed construction of the three (3) season porch is designed in a way that clears the downward sloping garage roof. It would create a financial hardship to the Applicant to re-construct the proposed project in any other way in order to try and comply with the setbacks. The granting of the Variance will allow the construction of the three (3) season porch, along with preventing the creation of a financial detriment to the Applicant.

2. *Desirable relief may be granted without substantial detriment to the public good.*

| The proposed three (3) season porch is the last phase in the construction process of the home. The structure will not affect or obstruct the street view, and the relief is minimal in nature (less than three feet below the minimum rear yard requirement). There is an already existing Variance on the property for the garage, which granted more relief from the rear yard requirement than what was is being granted for the three (3) season porch. Also, the building is in harmony with the character of the neighborhood, and will remain in harmony with the neighborhood. The Applicant stated at the Public Hearing that screening with shrubs is already in place as well. Furthermore, support from the abutters was voiced, and there was no opposition from abutters or any of the public.

3. *Relief may be granted without nullifying or derogating from the intent or purpose of this bylaw.*

The Applicant's proposed three (3) season porch is consistent with similar structures and involves a de minimis incursion into the rear yard. The relief does not nullify or derogate from the intent or purpose of the bylaw.

Consistency: This decision is consistent with purpose and intent of the Zoning By-laws.

The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.

* * * * *

Said Variance is granted pursuant to Massachusetts General Laws c. 40A, s. 10 which provides in pertinent part as follows: "If the rights authorized by a variance are not exercised within one year of the date of grant of such variance such rights shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period. If the permit granting authority does not grant such extension within thirty (30) days of the date of application thereof, and upon the expiration of the original one year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section."

Massachusetts General Laws c. 40A, s. 11. provides in pertinent part as follows:

"...No variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town or city clerk that twenty days have elapsed after the decision has been filed in the office of the city or town clerk and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant."

MASSACHUSETTS GENERAL LAWS c. 40A, s. 15 PROVIDES THAT APPEALS FROM A DECISION OF A BOARD OF APPEALS SHALL BE MADE PURSUANT TO SECTION 17 OF C. 40A AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

WALPOLE ZONING BOARD OF APPEALS


Robert Fitzgerald, Clerk

RF/am

cc: Town Clerk	Engineering	Planning Board	Applicant
Board of Selectmen	Building Inspector	Conservation Commission	Abutters

This decision was made on September 19, 2018 and filed with the Town Clerk on September 28, 2018.